IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Surendra Pal Singh v. State of Raj. & Ors.

S.B.CIVIL WRIT PETITION No.3003/1993
under Article 226 of the Constitution of India.

Date of Order : 15th February, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Anil Bhandari, for the petitioner.
Mrs.Raghu Raj Kanwar, Addl.Govt.Advocate.

BY THE COURT :

A contract was given to the petitioner to collect royalty of sand stone at out post situated at Balesar Satta, Balesar Durgawta and village Kui Jodha in District Jodhpur as a consequence of auction took place on 28.5.1991.

The petitioner was required to make payment of guarantee amount i.e. of Rs.47 lacks in equal monthly instalments of Rs.3,91,667/-. As per requirement of contract the petitioner deposited security amount in a tune of Rs.5,90,000/- with respondents. The security amount was deposited in form of FDR and the same was pledged with Assistant Mining Engineer, Balesar District Jodhpur. The petitioner deposited 11 monthly instalments with the respondents and the last instalment became due on 12.8.1992. The petitioner did not deposit the

last instalment but submitted an application to the respondent department to adjust the last instalment by deducting amount from the security pledged with the Assistant Mining Engineer, Balesar. The respondent department adjusted the last instalment on 26.3.1993. Out of remaining security amount the department also deducted a sum of Rs.62,927/- against interest for delay in depositing the last instalment. In fact the last instalment was not deposited by the petitioner but was adjusted from the security amount. This fact was communicated to the petitioner by Superintending Mining Engineer, Jodhpur by an office order dated 26.3.1993. The petitioner has given challenge to deduction of the sum referred above against interest.

It is contended that there was no occasion to charge interest from the petitioner as he instructed the department on 20.8.1992 itself to adjust the last instalment of Rs.3,91,667/- from the security amount. According to the petitioner the security amount was with the respondents and, therefore, no delay was caused by him in depositing the last instalment, as such he is not liable to pay the interest.

A reply to the writ petition has been filed on behalf of the respondents stating therein that under the terms of contract the petitioner was under obligation to make payment of the instalments. The terms of contract does

not permit the petitioner to get the instalments adjusted from the security amount pledged with the Assistant Mining Engineer in a form of FDR. The refund of security amount could be made only after ascertaining and determining all kinds of liabilities related to the contractor. The respondents in their reply have also given details with regard to adjustment of security amount which is as under:-

“(i)	Amount of last instalment	-Rs.3,91,667
(ii)	Rent for royalty naka Building	-Rs. 10,080
(iii)	Interest	-Rs. 62,847
		Rs.4,64,594
The amount of security		-Rs.5,90,000
less – aforesaid adjustments		-Rs.4,64,594
		Rs.1,25,406”

I have heard counsel for the parties.

There is no dispute between the parties that the petitioner was required to deposit monthly instalment of Rs.3,91,667/- in 12 equal parts. It is also not disputed that last instalment was due on 12.8.1992. It is also admitted that the terms of contract no where permits the contractor to get instalment adjusted against security pledged with the authorities of the Mining Department. Rule 61 of the Minor Mineral Concession Rules, 1986 (hereinafter referred to as “the Rules of 1986”) empowers the respondents to charge interest on royalty

collection contract amount after 15 days from the date it becomes due.

In the present case the petitioner was to deposit the royalty collection amount on 12.8.1992. It is admitted that last instalment was not deposited by the petitioner till the same adjusted by the department from the security pledged. The respondents, therefore, rightly charged interest from the petitioner in accordance with Rule 61 of the Rules of 1986. It was the liability of the petitioner to deposit all 12 equal monthly instalments and it was not at all open for him to get the last instalment adjusted from the security pledged with the department. The contractor was to act in accordance with the terms of contract. It is admitted position that the terms of contract provides for deposition of 12 equal monthly instalments. The petitioner being failed to do so was liable for charged with interest on the amount pertaining to last instalment. I do not find any illegality in the action of the respondents while charging interest in terms stated above.

In view of it, the writ petition is having no merit and the same, therefore, is hereby dismissed. No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.